

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**IN THE MATTER OF
THE EXTRADITION OF
NDUE HARUSHA**

**Case No. 07-x-51072
HON. LAWRENCE P. ZATKOFF**

OPINION AND ORDER

AT A SESSION of said Court, held in the
United States Courthouse, in the City of Detroit,
State of Michigan, on the 1ST day of May, 2008.

PRESENT: THE HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

I. INTRODUCTION

On April 9, 2008, the Court issued an Opinion and Order certifying that Ndue Harusha (“Harusha”) is extraditable and referred the matter to the United States Secretary of State for further proceedings. Now before the Court is a Motion to Stay the Execution of Extradition Order (Docket #16) filed by Harusha. The Government has filed a response.

II. ANALYSIS

In essence, Harusha is asking the Court to stay matters so that he can remain in this judicial district and consult with his counsel while preparing a petition for habeas review pursuant to 21 U.S.C. §2241. The Court notes that Harusha has the right to collateral review of the Court’s decision pursuant to 21 U.S.C. §2241, but Harusha has presented no authority in support of his request to remain in the district to consult with counsel about his options.

In response, the Government argues that applicable extradition laws do not limit the

Secretary of State's ability to proceed with extradition while a extraditee considers whether to continue litigation. The Government also states, however, that the U.S. Secretary of State typically does not order extradition for a period of 30 days following certification so that an extraditee may file a habeas petition.

In this case, the Court finds that it has now been 21 days since the Court certified that Harusha is extraditable and referred the matter to the U.S. Secretary of State. In addition, there is no indication that Harusha has been moved or will be moved imminently such that he will not be able to file a petition for habeas review if he so desires. Finally, the Court notes the representations of Government that extraditees are typically afforded 30 days to file a habeas petition. For those reasons, the Court finds that there is no reason to stay the proceedings. Significantly, the Court also is not aware of any legal authority for this Court to stay the proceedings once the April 9, 2008, Opinion and Order was entered.

III. CONCLUSION

For the reasons set forth above, the Court hereby DENIES Harusha's Motion to Stay the Execution of Extradition Order.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: May 1, 2008

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on May 1, 2008.

s/Marie E. Verlinde

Case Manager

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